

## STATE OF VERMONT

## HUMAN SERVICES BOARD

In re ) Fair Hearing No. 12,175

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Appeal of )

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare decreasing his monthly food stamp allotment. The issue is whether the petitioner's shelter costs have decreased because he has been homeless for several months.

FINDINGS OF FACT

The petitioner lives alone, with no dependents. In May 1993, the petitioner reported to the Department that he had recently been evicted from his apartment and was living in his car. At the time, he was receiving \$111.00 per month in food stamps. The Department took no adverse action on the petitioner's grant at that time.

In June, 1993, the petitioner underwent a scheduled six-month "certification review" of his food stamps. The petitioner was still living in his car then but stated that he was looking for another place to live. In a notice dated June 10, 1993, effective July 1, 1993, the Department notified the petitioner that he would continue to receive food stamps in the amount of \$111.00 per month. This amount was based on the rent he had previously been paying, and the Department's determination that the petitioner's homelessness would be temporary.

By mid-July, however, the petitioner still had not found another place to live. On July 14, 1993, the Department sent the petitioner a notice that effective August 1, 1993, his food stamps would be reduced to \$30.00 per month. At the hearing, held on August 11, 1993, the Department explained (as best the hearing officer could understand) that the \$30.00 amount was arrived at by "prorating" the petitioner's shelter expenses--allowing him to deduct his previous rent for another half a month, but determining that he had no shelter expenses after that time.

About a week later, however, the Department apparently changed its mind. On July 23, 1993, it sent the petitioner another notice stating that his food stamps were being reduced to \$10.00 a month beginning

August 1, 1993 because his shelter expenses for the entire month were zero. At the hearing, however, after it was pointed out by the hearing officer that the Department's second notice had not given the petitioner a full ten (10) days notice as required by the regulations, the Department agreed that the reduction to \$10.00 per month could not become effective until September 1, 1993.

As of the date of the hearing (August 11, 1993) the petitioner was still living in his car and appeared to have no prospect of finding permanent shelter. At the hearing the petitioner offered a rambling and disjointed argument that his food stamps should not be reduced because he had been unfairly forced to sell some real property pursuant to a divorce order, and that if the court had awarded him access to the proceeds of the property sale, he could have avoided his eviction in May. (It appears that in the petitioner's mind his divorce case and this food stamp appeal are somehow intertwined.) The petitioner did not dispute, however, that since May, 1993, he has not incurred any shelter costs. His income (disability benefits) has not decreased throughout the period in question.<sup>(1)</sup>

### ORDER

The Department's decision regarding the petitioner's food stamps for August, 1993, is modified in that the "correct" benefit level for that month should have been \$30.00, as the Department initially determined and notified the petitioner in a timely manner. The Department's decision to reduce the petitioner's benefits to \$10.00 per month as of September 1, 1993, is affirmed.

### REASONS

As a general matter, the food stamp regulations require the Department to effectuate changes in a recipient's food stamps the first month after circumstances that require such changes are brought to the Department's attention. F.S.M. § 273.12(c)(2). In this case the Department, thinking that the petitioner's lack of housing would most likely be short-lived, continued the petitioner's food stamps unchanged for two months after the petitioner reported that he was no longer paying rent. Under the circumstances, this was certainly a reasonable and humane application of the above regulation. However, nothing in the regulations requires (or even allows) the Department to continue food stamps indefinitely to a homeless household based on the shelter expenses the household was incurring when it last had housing. See F.S.M § 273.9(3)(5). The question in this case is whether the Department should be required to continue the petitioner's food stamps for more than two months based on his previously incurred shelter expenses.

It is unnecessary, and probably unwise, to attempt to define a precise "rule" to govern the Department and the Board in determining how long to allow a homeless household to continue to receive food stamps based on its previous shelter expenses. Those determinations are better based on the specific facts and circumstances of an individual household's situation. Although one can sympathize with the petitioner's plight, in this case it cannot be concluded that after two months had gone by and the petitioner could demonstrate no foreseeable prospect of a change in his situation, the Department was unreasonable in adjusting the petitioner's food stamps based on his circumstances as they then existed.

If the petitioner can show that he does have actual shelter costs--i.e., either he finds a place to live or he incurs expenses specifically related to living in his car--he should bring these immediately to the Department's attention, and his benefits can be adjusted accordingly. Based on the information provided by the petitioner to date, however, it is concluded that the Department's decisions reducing the petitioner's food stamps to \$30.00 as of August 1, and \$10.00 as of September 1, 1993, are fully in accord with the pertinent regulations (supra). Therefore, those

decisions are affirmed. 3 V.S.A. § 3091 (d) and Food Stamp Fair Hearing Rule No. 17.

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1. It is unclear the extent to which the petitioner's homelessness is a function of his income. As noted above, the petitioner was not able to clearly articulate the circumstances that have led to his current situation. There is no indication, however, that the petitioner does not have sufficient income to afford another place to live, and it does not appear that the petitioner has availed himself of the services that exist in his community that offer shelter and referrals for homeless individuals. This is not to say that the petitioner's current circumstances are "voluntary", only that there appear to be factors other than financial that are affecting his current situation. Although it has probably already attempted to do so, the Department's district office is urged to do what it can to refer the petitioner to those services and organizations that may be able to help him secure permanent housing.